

In the Supreme Court of the United States

Jeanna Norris; Kraig Ehm; D'Ann Rohrer, Applicants

v.

Samuel Stanley, in his official capacity as
President of Michigan State University, *et al.*

**APPLICATION DIRECTED TO THE HONORABLE BRETT M.
KAVANAUGH FOR AN EXTENSION OF TIME TO FILE A PETITION
FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT**

**TO: The Honorable Associate Justice Brett M. Kavanaugh,
Circuit Justice for the Sixth Circuit:**

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 12, 13.5, 22, 30, and 33.2, Applicants Jeanna Norris, *et al.*, respectfully request a 30-day extension of time, up to and including, February 8, 2024, to file a petition for a *writ of certiorari*.

JUDGMENT FROM WHICH REVIEW IS SOUGHT

The United States Court of Appeals for the Sixth Circuit issued its opinion, which is reported at 73 F.4th 431 (6th Cir. 2023), on July 13, 2023 (App. 2a–11a). Applicants sought and received an extension of time to file a petition for rehearing and rehearing *en banc*, and thereafter did so within the time allotted by the Sixth Circuit. The Sixth Circuit denied rehearing on October 11, 2023 (App. 1a).

JURISDICTION

Under Rule 13.3, the petition for *certiorari* is due within 90 days of October 11, or on Tuesday, January 9, 2023. The present application is being filed on December 19, 2023, more than ten days before the time for filing the petition is set to expire. This Court has jurisdiction under 28 U.S.C. § 1257(1) to review the decision of the United States Court of Appeals for the Sixth Circuit.

BACKGROUND

Applicants, all individuals with natural immunity to Covid-19, filed a civil rights suit under 28 U.S.C. §§ 1331 and 1343(a)(3)-(4), as well as 42 U.S.C. §§ 1983 and 1988, and under non-statutory equitable jurisdiction the Western District of Michigan, alleging that the then-extant Covid-19 vaccine mandate instituted by Defendants violated Applicants' constitutionally protected rights to bodily integrity and autonomy and to refuse unnecessary medical treatment in violation of the Due Process Clause of the Fourteenth Amendment, and ran afoul of the federal statute governing emergency use authorization of drugs and medical devices. In two separate orders, and relying principally on *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the district court dismissed the action.

The Court of Appeals, again viewing *Jacobson* as a binding and applicable precedent, affirmed in a published opinion.

The Court of Appeals rejected Applicants' arguments that the mandate, being an intrusion upon Applicants' bodily autonomy, is subject to at least intermediate scrutiny, and further held that the mandate passed rational basis review because Defendants "could rationally believe that requiring the vaccine for naturally immune individuals would further combat COVID-19 on its campus." 73 F.3d at 436.

Applicants respectfully submit that the question of *Jacobson's* continued vitality, especially in light of this Court's more recent pronouncements in *Vacco v. Quill*, 521 U.S. 793 (1997), *Washington v. Glucksberg*, 521 U.S. 702 (1997), and *Cruzan ex rel. Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261 (1990) warrant the Court's attention.

REASONS JUSTIFYING EXTENSION OF TIME

Applicant has good cause to seek an extension of time. First, in addition to completing the work necessary to prepare the petition for a *writ of certiorari*, between now and the requested deadline, Applicants' counsel are occupied with briefing deadlines and argument in a variety of matters in state and federal courts.

Moreover, one of Applicants' attorneys, who served as principal attorney in the District Court and Sixth Circuit appeal, is imminently scheduled to take maternity leave. Applicants' other attorney, who is a full-time law professor, is scheduled to teach a course on United States patent law in Munich, Germany, while

also attending to his responsibility of grading over 130 exams from the just-completed Fall 2023 semester.

Applicants respectfully submit that, given the complexity and importance of the underlying legal issues, as well as counsel's competing obligations, Applicants' counsel will need additional time to prepare the petition for a *writ of certiorari*, and therefore good cause exists justifying a 30-day extension of time.

CONCLUSION

For the foregoing reasons, Applicants respectfully request that an order be entered extending the time to file a petition for a *writ of certiorari* in this case by 30 days, up to and including February 8, 2024.

Dated: December 19, 2023

Respectfully submitted,

/s/ Jenin Younes

JENIN YOUNES

COUNSEL OF RECORD

GREGORY DOLIN

NEW CIVIL LIBERTIES ALLIANCE

1225 19TH STREET, NW

SUITE 450

WASHINGTON, DC 20036

(202) 869-5210

jenin.younes@ncla.legal

Counsel for Applicant